

Introduced by Senator Huff

February 25, 2009

An act to amend Section 5810 of the Public Utilities Code, relating to cable and video service.

LEGISLATIVE COUNSEL'S DIGEST

SB 304, as introduced, Huff. Cable and video service.

Existing law, the Digital Infrastructure and Video Competition Act of 2006, establishes a procedure for the issuance of state franchises by the Public Utilities Commission for the provision of video service, defined to include cable service and open-video systems. Under that act, a person or corporation that seeks to provide video service in this state is required to file an application with the commission for a state franchise with specified information, signed under penalty of perjury.

This bill would make a technical, nonsubstantive change to a provision of that act.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5810 of the Public Utilities Code is
- 2 amended to read:
- 3 5810. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) Increasing competition for video and broadband services is
- 6 a matter of statewide concern for all of the following reasons:

1 (A) Video and cable services provide numerous benefits to all
2 Californians including access to a variety of news, public
3 information, education, and entertainment programming.

4 (B) Increased competition in the cable and video service sector
5 provides consumers with more choice, lowers prices, speeds the
6 deployment of new communication and broadband technologies,
7 creates jobs, and benefits the *entire* California economy.

8 (C) To promote competition, the state should establish a
9 state-issued franchise authorization process that allows market
10 participants to use their networks and systems to provide video,
11 voice, and broadband services to all residents of the state.

12 (D) Competition for video service should increase opportunities
13 for programming that appeals to California's diverse population
14 and many cultural communities.

15 (2) Legislation to develop this new process should adhere to
16 the following principles:

17 (A) Create a fair and level playing field for all market
18 competitors that does not disadvantage or advantage one service
19 provider or technology over another.

20 (B) Promote the widespread access to the most technologically
21 advanced cable and video services to all California communities
22 in a nondiscriminatory manner regardless of socioeconomic status.

23 (C) Protect local government revenues and control of public
24 rights-of-way.

25 (D) Require market participants to comply with all applicable
26 consumer protection laws.

27 (E) Complement efforts to increase investment in broadband
28 infrastructure and close the digital divide.

29 (F) Continue access to and maintenance of the public, education,
30 and government (PEG) channels.

31 (G) Maintain all existing authority of the California Public
32 Utilities Commission as established in state and federal statutes.

33 (3) The public interest is best served when sufficient funds are
34 appropriated to the commission to provide adequate staff and
35 resources to appropriately and timely process applications of video
36 service providers and to ensure full compliance with the
37 requirements of this division. It is the intent of the Legislature that,
38 although video service providers are not public utilities or common
39 carriers, the commission shall collect ~~any~~ *the* fees authorized by
40 this division in the same manner and under the same terms as it

1 collects fees from common carriers, electrical corporations, gas
2 corporations, telephone corporations, telegraph corporations, water
3 corporations, and every other public utility providing service
4 directly to customers or subscribers subject to its jurisdiction such
5 that it does not discriminate against video service providers or
6 their subscribers.

7 (4) Providing an incumbent cable operator the option to secure
8 a state-issued franchise through the preemption of an existing cable
9 franchise between a cable operator and any political subdivision
10 of the state, including, but not limited to, a charter city, county, or
11 city and county, is an essential element of the new regulatory
12 framework established by this act as a matter of statewide concern
13 to best ensure equal protection and parity among providers and
14 technologies, as well as to achieve the goals stated by the
15 Legislature in enacting this act.

16 (b) It is the intent of the Legislature that a video service provider
17 shall pay as rent a franchise fee to the local entity in whose
18 jurisdiction service is being provided for the continued use of
19 streets, public facilities, and other rights-of-way of the local entity
20 in order to provide service. The Legislature recognizes that local
21 entities should be compensated for the use of the public
22 rights-of-way and that the franchise fee is intended to compensate
23 them in the form of rent or a toll, similar to that which the court
24 found to be appropriate in Santa Barbara County Taxpayers
25 Association v. Board of Supervisors for the County of Santa
26 Barbara (1989) 209 Cal. App. 3d 940.

27 (c) It is the intent of the Legislature that collective bargaining
28 agreements be respected.

29 (d) It is the intent of the Legislature that the definition of gross
30 revenues in this division shall result in local entities maintaining
31 their existing level of revenue from franchise fees.